

Governor's Office of Emergency Services

**DAM INUNDATION MAPPING PROCEDURES
EMERGENCY RULEMAKING**

Finding of Emergency

The Director of the Governor's Office of Emergency Services (OES) finds that an emergency exists, and that the foregoing regulations are necessary for the immediate preservation of the public peace, health and safety, or general welfare.

Facts Showing the Need for Immediate Action

OES finds that the adoption of these regulations is necessary for the protection of the public safety and well-being due to the following facts:

1. The emergency regulation authorized April 2, 2002 will be repealed on September 12, 2002 and continued regulation is required through the readoption period.
2. In light of the September 11, 2001 terrorist attacks and ensuing war against terrorism and the possibility that such activity may continue in the future; dams are high potential targets for terrorism.
3. California dams of significant size are aging and thus more susceptible to damage.
4. California has a history of significant seismic activity and other natural disasters with the potential to seriously damage dams.
5. The failure of a dam could produce catastrophic loss of life unless emergency preparedness activities are implemented.
6. No uniform standard exists to compel dam owners to produce a dam failure inundation map that will meet the needs of emergency planners.

The Dam Safety Act, codified as Government Code Section 8589.5 was passed to establish procedures for emergency evacuation and control of populated areas below dams. The Dam Safety Act provides for the development of inundation maps by dam owners, map approval by OES, and development of emergency procedures by local governments to evacuate and control the risk areas.

No regulations currently exist for implementation of Section 8589.5. Previous technical guidance and evaluation of inundation maps was based on the "Sequence of Steps in Inundation Map Preparation," a 1991 publication prepared by the Department of Civil Engineering, California State University, Sacramento. Prior to that time, there were

no written criteria for programmatic inundation mapping standards, and guidance is not enforceable.

On November 19, 2000, OES was petitioned requesting the Adoption of Regulations and Rescission of Underground Regulations. On December 27, 2000, OES responded to the petitioner granting the request to adopt regulations to implement Government Code Section 8589.5. On June 27, 2001, the Office of Administrative Law (OAL) accepted a Request for Determination from the same petitioner to review the guidelines used by the Office of Emergency contained in “Sequence of Steps in Inundation Map Preparation” and rule if they are actually underground regulations. If the guidance is determined to be underground regulation, this would leave OES without the technical justification to approve inundation maps, thus potentially endangering the lives of people below dams.

Authority and Reference

Authority: California state law under Title 2, Division 1, Chapter 7, Sections 8567 and 8586 of the Government Code.

Reference: Title 2, Division 1, Chapter 7, Section 8589.5 of the Government Code.

Informative Digest/Plain English Overview

Existing law, Government Code Section 8589.5, established a program that provides local jurisdictions with a map of areas that might be flooded if a dam fails and requires that these local jurisdictions develop emergency evacuation plans. This program is run by OES and helps local agencies plan for emergency activities in response to a dam failure. These regulations will establish procedures to ensure the timely submission of competent inundation maps adequate for the purpose of evacuation planning.

Of the approximately 1,400 jurisdictional dams in California, OES has only 583 approved inundation maps.

The proposed emergency regulations address three issues.

1. The law requires dam owners to produce inundation maps, which OES reviews and considers for approval. The regulations will adopt procedures for the development and evaluation of such inundation maps.

A 1991 guidance document provided methods and other information for creating inundation maps. The 1991 document is no longer being used by OES. These regulations contain modern methods and will become the standard.

2. Government Code §8589.5(d) provides for a waiver from the owner-developed inundation mapping requirement. The regulations explain how to apply for a waiver.

3. The regulations establish standardized requirements for all persons subject to the code section.

Plain English Policy Statement

OES has determined that it is not feasible to draft the proposed regulations in plain English due to the technical nature of the regulations. Copies of the noncontrolling plain English summary of the regulations are available from the contact person named below:

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OES Determinations Regarding the Fiscal Impact of Proposed Action

Mandate on local agencies and school districts: OES staff has determined that compliance with the proposed regulations should not result in any additional mandate to schools and local agencies above that required in the statute.

Costs or savings to any state agency: OES staff has determined that compliance with the proposed regulations should not result in additional cost to public agencies when they are acting to comply with statute. Savings may occur due to the reduction in staff time because of standardized criteria for the preparation of an inundation map.

Cost to any local agency or school district that must be reimbursed in accordance with Government Code Section 17561: OES staff has determined that compliance with the proposed regulations should not result in any additional cost to schools and local agencies.

Other non-discretionary cost or savings imposed upon local agencies: OES staff has determined that compliance with the proposed regulations could indirectly result in cost savings to public agencies due to the reduction in staff time used to evaluate criteria and standards for the preparation of an inundation map.

Cost or savings in federal funding to the state: OES staff has determined that compliance with the proposed regulations should not result in additional federal cost or savings to public agencies when they are acting to comply with statute.

Statement of Referenced Material: OES will provide material referenced in the regulations or the source where the material is readily available to the public on request.